

4624 *Decimarum & Oblationum Tabula.*

A Tything Table.

O R

Table of *Tithes* and *Oblations*, according to the Ecclesiastical Laws and Ordinances established in the Church of *ENGLAND*, Now newly reduced into a Book.

Containing

As well the very letter of the Law under which these rights be severally comprised, together with such questions of tything, and their resolutions by the Lawes Canon, Civil, and approved Doctors opinions of the same, as be ordinarily moved, and which doe often prove to controversies herein.

As also

A brief and summarie declaration of *Composition*, *Transation*, *Custom*, *Prescription*, *Priviledge*, And how they prevail in Tything.

Annexed hereunto

Summarily, such Statute Lawes of the Land concerning these rights, as have been herein authoris'd, and now doe remain in their force accordingly. To the easie and plain instructions of all the subjects Ecclesiastical or Lay, whether in these rights to demand them, or bounden to perform the same.

Compiled by *W. C. Bach.* of the Civil Law.

Eccl. 25. Hallow thy Tythes unto God with gladness.

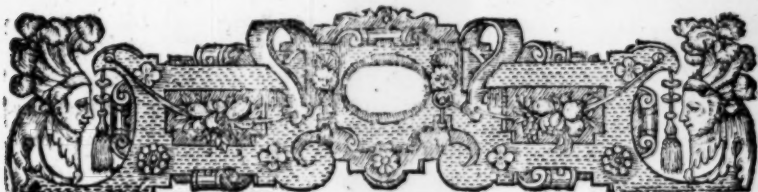
Prov. 3. So shall thy Barne be filled with plenteousness, and thy presses flow over with sweet Wine.

LONDON,

Printed by *J. T.* for *Andrew Crook* at the *Green-dragon* in Saint Pauls Church-yard. 1658.

Crook





THE PREFACE.

THe Canon and Civil Lawes (*Christian Reader*) since first King Henry of happy memory the Eighth, dismembred their bodies, ^a and restored to the Diadem of the Land (over the state Ecclesiastical) the ^{a 25 He. 8. 19} Ancient Jurisdiction of the Crown, they have and do lye hidden, such of them as King Henry then continued, and King Edward ^b that succeeded him, ^{b 2. Ed. 6. 13.} Intituled in his reign the Kings, and afterwards were the late Queenes deceased, and as they be now tearmed, The Kings Ecclesiastical Lawes, (the former statutes revived by Her Majesty, ^c in the first year of her Reign) ^{c 1. Elizab. 1.} they have these Lawes, and do lie hidden in manifold, dark, and dangerous corners, in practise onely familiar in Consistories, and their knowledge to the Countries obscure: hence are the manifold untimely Customs and Prescriptions that wee have: I inveigh not against them, neither custome or prescription, that be perfect now and in their perfect being, I would not be taken, or rather mistaken so: but they be weeds in their growing and all their ingendring

A 2

time,

The Preface.

time, wherein (onely) they give place to prevention: they be Lawes of themselves (in their ripeness) inviolable. If therefore some insight into these Lawes, and knowledge succeeding this long obscurity, may work another effect in the time to come, none can say uprightly now that he is, may be, or his posterity after him (if not benefited) dam- nified thereby: happily I may be charged (in translating) to have dammified the lawes, I have shadowed (I con- fesse) their first and original grace, such beauty have they and Elegancy too, in the latine tongue: but I write to English-man; and such as not so much affect to hear of the beauty, as they be desirous to understand the benefit of their lawes, for such I have framed this Tything Table, and replenished (as my slender skill would serve) the same, with necessary, dispersed, and scattered lawes, not hurtful, considered as they be delivered, nor prejudicial to the Royal prerogative, nor repugnant to the lawes, Statutes, nor Cu- stomes of this land. Tythes (by sale) be turned into chattels e, and made of spiritual, temporal things: in de- bate (of the right of patronage) in Tythes, and exceed- ing the fourth part of the value of the Church f, where great wood is demanded in the name of Silva Cæduag, in Tythes and Oblations, wherethere is any state of inheri- tance h, and where they be demanded, and be neither due nor accustomed, i the Kings prohibition doth lie in all these cases and no consultation: otherwise, and without such temporal mixtures, prohibition hath no place k: but the Judge Ecclesiastical hath power to proceed, notwithstanding the Kings prohibition l. Conceiving them therefore (Chri- stian Reader) as they be meant, and mentioned to be pre- sented unto thee, viz. As they be meerely spiritual Tithes and Oblations, and without any temporal mixture, thou shalt not misconstrue the Author, nor deceive thy self. Farewel.

The Readers (ever) in the LORD.

W. C.

Glo. & D D
a c. vigilant
le praeicip.

Art. cler. 9.
Ed. 2. 1.

9. Ed. 2. 2.
34. Ed. 1. 1.
e conjunctum
cofatis.

45 Ed. 2. 3.
3. Hen 8. 7.
13 Ed. 1.
cire. agat.

& Firz deno.
turabrevium
Fol. 50.
de consulrati-
one.

9. Ed. 2. cir-
cumspete a-
garis. 13.
Ed. 1.

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The Bible of a large English or black letter, used in Churches.

The Bible of a fair London Print.

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The

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2. The right way of dying well.
3. The government of the Tongue.
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5. The right knowledge of *Christ* crucified.
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Two Plays by Thomas Kelleghrew, viz:

The Prisoners.

Claracilla.

Lots Little -one.

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A warlike Treatise of the Pike,

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Latin Testament.

English Testament.

The third part of the Bible.

Plays.

Queen Elizabeth, first and second Part.

The honest whore, first and second Part.

The Fleir.

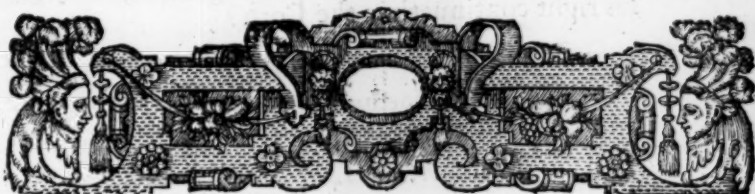
The Opportunity.

The swaggering Damsel.

Lilly his Comedies.

The Tragedy of Hoffman.

Philis of Sciros.



*A brief Collection of the Letter and terms
of the Law, with their severall Expositions in En-
glish: and of all such questions of Tything which
be mentioned and contained within the body of
this Table, whereby every Tythable thing
and question that is moved and answered
of the same is readily found.*

The First Question.



Decima De { *Frugibus, i.* Of Harvest fruits, sown,
mown, reaped, gathered,
bound or loose, in Heap,
shock or sheaf.

- 1 When they be tithable, and such other prædial Tithes, whether it be lawful to the owner to dispose any manner of way of any part of the fruits before division be made, and the Tenth part be severed from the Nine parts?
- 2 If a stranger shall prescribe tithes in another parish, and there shall happen afterwards barren and wast grounds to be tilled, whether the stranger that prescribeth, or the Church where the grounds doe lie, shall reap the Tithes?
- 3 If one shall have right of tithe in a wood, and that

B

wood

wood become afterwards arable ground, whether his right continueth in the Corn?

The Second Question.

Decima D: { *Silvis cædvis*, i. Of woods felled, & preserved to grow again.
Lignis, i. Of wood not in use, nor apt for Timber, but for firing.
Thenitiis, i. Of trees planted for fencing
agrorum, i. of grounds, in fields, pastures, and hedge-rows.
Turvis, i. Of Turves growing in fenish & moorish soils, as in the Isle of Ely.

- 1 Wood of 20. years growth and upwards, whether it be tithable or not? And what of lopping of timber trees?
- 2 When woods be felled and sold, who shall answer the tithe? the buyer, or the seller?
- 3 If the inheritance of a wood be sold, that is in arrears for tithe, whom the Parson may implead?
- 4 Turves, amongst what tythes they be reckoned?

The Third Question.

Decima D: { *Pasturis*, i. Of pasture grounds.
 1 If they be fed, how the tithe shall be answered?

The Fourth Question.

Decima De { *Fenis*, i. Of Hay.

1 Hay

1 Hay, of what places? and what Tithe it is?

The Fifth Question.

Decima De { **Lama, i.** Of Wool.

- 1 Whether the sheep of Sons and Daughters be tithable (or not) with their fathers flocks wherein they do goe?
- 2 Where sheep be removed from one parish to another, how the Tithe is divided by rate and proportion of time?
- 3 If strange sheep be brought to another parish and there be clipped or shorn, how they be tithable there?

The Sixth Question.

Decima de { **Agnis, i.** Of Lambs.
Vitulis, i. Of Calves.
Procellis, i. Of Pigges.
Pullis, i. Of Colts.

- 1 Whether the person may expect his Lamb (the next year following) if the parishioners number in any one year amounteth not to ten? And what if he faileth then?
- 2 When ewes be removed, and other such cattel and beasts from one parish to another, how the several *Churches* be interested in the Tithe of their Lambs, and such other increase.
- 3 Of Lamb, calf, Kid, colt, pigge, &c. and when is their Tythable time?

The Seventh Question.

Decima De $\left\{ \begin{array}{l} \text{Lacte, i. Of Milk.} \\ \text{Caseo, i. Of Cheese.} \end{array} \right.$

- 1 Milk and Cheese how? and when they be tithable?
- 2 If Cattel feed in one parish and couch in another, how the profits be tithed?
- 3 Where Cheese is tithable, and the number of Cattel so small that none can be made; how the tithe shall be answered for their small proportion?
- 4 Where Milk of sheep is tithed in kind, how they be tithable (for their pasture) in the Winter, when they doe yeeld no such profit?

The Eighth Question.

Decima de $\left\{ \begin{array}{l} \text{Fructibus} \\ \text{arborum,} \end{array} \right.$ i. Of Fruits of Trees.

- 1 Of apples and other such fruits of trees, what of their tithable time?

The Ninth Question.

Decima De $\left\{ \begin{array}{l} \text{Seminibus, i. Of seeds: Hemp, Flax, On-} \\ \text{nious, Rape and such like.} \\ \text{Herbis, i. Of Pot-herbs.} \\ \text{Curtilaginis, i. Of places adjoining to man-} \\ \text{tion houses, applied to seeds} \\ \text{and herbs.} \end{array} \right.$

- 1 Of Seeds and Herbs, what manner of tithes they be?

The

The Tenth Question.

Decima D: { *Pannagiis*, i. Of Mast, of Beech, or Oke, or
silvarum, i. such like.
 I Of Mast, what, when it is given? and what, when it
 is sold?

The Eleventh Question.

Decima D: { *Molendinis*, i. Of Mills, forced by wind,
 water, &c.
Vivariis, i. Of Parkes, Warrens, pools,
 ponds, &c.
Bestiis quare- i. Of wild beasts under
narum, i. custody, &c.
Columbariis, i. Of Dove-cotes, or houses.
Apibus, i. Of Bees.
 I What manner of tithes they bee? And how they be
 tithable?

The Twelfth Question.

Decima De { *Ancupis*, i. Of Fowlings.
Venationibus, i. Of Huntings.
Piscationibus, i. Of Fishings.
 I Beasts, Fishes, Fowles, how (diversly) they be
 tithed, (diversly) considered?

The Thirteenth Question.

Decima De { *Cignis, i,* Of Swannes.
 Aucis, i, Of Geese.

I Of Swans, Geese, Ducks, and how they be considered of.

The Fourteenth question.

Decima De { *Ovis, i,* Of Egges.

I Of Egges, where tithes be yeilded, whether chickens be tithable there?

The Fifteenth question.

Decima De { *Artificiis, i,* Of Crafts, and manual occupations.
 Negotiationibus, i, Of trades by wares, Marchandise, &c.

I Of personal tithes, what time, place, and persons, be required in them, and of whom the Church is forbidden to receive either personal tith, or Oblation?

*The First Question.*


Decima De { *Frugibus, i,* Of Harvest fruits sown, mown, reaped, gathered, bound or loose, in Heap, shock or sheaf.

I When

- 1 When they be tithable, and such other prædial Tithes, whether it be lawful to the owner to dispose any manner of way of any part of the fruits before division be made, and the Tenth part be severed from the Nine parts?
- 2 If a stranger shall prescribe tithes in another parish, and there shall happen afterwards barren and wast grounds to be tilled, whether the stranger that prescribe, or the Church where the grounds doe lie, shall reap the Tithes?
- 3 If one shall have right of tithe in a wood, and that wood become afterwards arable ground, whether his right continueth in the corn?

Questions of Tithing, and their Resolutions.

The first Question.

1  Arishioners out of their Harvest-fruits, specified under the word *Frugibus* (before their tithes assigned of the same) diminish their fruits, some one way, some another: admit to godly, or prophane uses: or (as their manner hath been) to the satisfying therein their labourers their wages. The question is, whether this be lawful? It is answered, A fraud unto the Church: For this allowance (If any such be) not otherwise ought to be made than forth of the Nine parts: and the reason is, *Decima debet solui sine diminutione*, &c. Tithe must be paid without any diminishing^a:

2 The parson of the Rectorie of *A* (*jure præscriptionis*) i. by right of prescription, hath interest in and to the predial tithes of the parish Church of *B*. where there be converted (into tillage) divers barren, heath, and

^a c. Cum he mines de decim. Glo. c. erroris dam-nabilis. Controu. Ang. d. dec. ver. error calculi.

and waſt grounds, that never before yeelded any profit to the Church : The queſtion is, (now) of theſe tithes, and which of the Churches ſhall have them ? It is answered, that the Pariſh Church of *B* ſhall have theſe Tythes, becauſe they be *Decime novalium*, i. a-riſing of ſuch grounds that never were manured nor yeelded before any profit at all to the Church : and the reaſon is, by the foundation of every Church the Tithes in general of that and every pariſh, are due to their own proper & peculiar Church^b. Now, for as much as the Church of *A* could never before be in poſſeſſion of the Tiths of theſe waſt ground, becauſe they never were in being^c, and that the law is, that *Tantum præſcriptum eſt, quantum eſt poſſeſſum, & non plus*, i. So much (and no more) in preſcription, than in poſſeſſion^d : And again, in that preſcription is not extended *ad futura*, i. It reacheth not unto profits of tythable grounds to come^e, *Summa equitatis eſt*, &c. i. The premiſes conſidered, it ſtandeth with great equity, in this caſe, that the Church of *B* ſhould reap and receive theſe tithes *f*.

3 But note, it is otherwiſe where one ſhall be in poſſeſſion of the Tithe of Corn, or of Paſture, or of Wood, or of any predial Tithes whatſoever ariſing in the grounds wherein he preſcribeth, howbeit afterwards there bee planted or ſet and ſown in the ſame any ſtrange plant, ſeed, or herb, that never grew before in theſe grounds. For example : Millet is ſown or Saffron, where corn hath been ſown uſually and ever before, and as the manner is, in ſome parts of this land to ſow in their Paſture grounds the herb that is called *Glaſtum* or *Iſatis*, *Cæſar* writeth of the old *Brittans* that they uſed with this herb to ſmear their faces, to the end to ſeem terrible to their enemies in war : we call

. Cum con-
gar. ubi
, & D D.
d.

. Sine poſ-
ſione. ff. de
cap.

. Quod
20. Sect. ff.
acquir.
ſſet. cap.
idiis de
ſcript.
an in ult.
tabili. in d.

cum con-
gar.
loſt. lo.
id in d. c.
im con in-

call it in English wadde or woad. Again, Apples, or Nuts, be newly planted where never they grew before: and so *Ex nemoribus*, *i.* Of woods that be converted to arable grounds: the Tyths in all these cases be payable as before they were of the former fruits, and to whom the former fruits were tythable before, namely, to the parson or Church that prescribeth, and the reason is, *viz.* *Præscriptio est realis censenda. i. Terram concernens, non speciem fructuum preceptorum.* *i.* Prescription is real, that is to say, respecting not the new or never tythed fruits, but the tythable grounds that bringeth them forth: In respect whereof, that is, of the grounds, the tythes whereof forepassed have been (without discontinuance or other interruption,) continued and possessed, it is thus affirmed (in these cases) of prescription, *viz.* *prescriptio extenditur ad particularitatem juris apprehensi, sub unico jure ut universali*, *i.* Prescription is extended to every particularity of right apprehended, as it were, under that particular, as general *b.* Otherwise it should be *in potestate scientis*, *i.* In the owners power (changing the fruits) to prevent anothers right in the Tyths of his certain, known, and tythable grounds: contray to the rule of the law, *viz.* *Id quod nostrum est sine facto nostro a nobis avelli non potest*, *i.* That which is mine cannot (without my fact) be taken from me *i.* Look the statute *De novalibus*, *i.* of barren, heath, and waste ground, 2. *Ed.* 6. 13. And look the statute for predial Tythes, and Tythable places, 2. *Ed.* 6. 13.

g Ancha. in c. Cum in tua. de deci. & Ant. But. in. d. c Cum in tua. cod.

b Ant. But. in c præal.

i ff. de reg. iur.

The Second Question.

Silvis cæduis, i. Of woods felled, & preserved to grow again.

Lignis, i. Of wood not in use, nor apt for Timber, but for firing.

Decima D.

Thenitiis i. Of trees planted for fencing, of grounds, in fields, pastures, and hedge-rows.

Turvis, i. Of Turves growing in fenish & moorish soils, as in the Isle of Ely.

- 1 Wood of 20. years growth and upwards, whether it be tithable or not? And what of loppings of timber trees?
- 2 When woods be felled and sold, who shall answer the tithe? the buyer, or the seller?
- 3 If the inheritance of a wood be sold, that is in arrears for tithe, whom the Parson may implead?
- 4 Turves, amongst what tythes they be reckoned?

The Second Question.

I



OF Woods and wood, contained and specified under the words *Silvis cæduis*, *Lignis*, *Thenitiis agrorum*, some of them exceed the growth of xx. years, and some of them not felled within the memory of man, peradventure not of an hundreth or two of years: there groweth a question of such woods for the Tythes of the same: It should seem, the Parishoner herein may plead for the one (against the Parson) the statute of *Silva Cædua*, that exempteth wood of Twenty yeares growth and

and upwards, from the payment of tythes: and (for the other) both the Statute and prescription, in that the Tyths therein were never performed: interpreting the Statute no further, then the statute explaineth it self: It is answered by the Canons alleaged, so farre forth (with protestation) and no further, then the statute shall permit, that wood not in use nor apt for Timber is tithable, body or bough, felled or lopped &c. As for prescription it is answered, *Prescriptio locum habere non potest, ubi illi cui jus competit agere non potest, cum cesset materia de qua experiatur, i.* Prescription hath no place, where the interested (in his right) can make no demand, the matter ceasing whereupon he should work: For example, Of Wood never cut, the Tithe could never be demanded^l. But whether the loppings or boots of such trees the which the Common Lawes of the Realm account timber be tythable or not, is not yet decided by that Law.

2 It is a question, when Woods so felled be sold, who shall answer the Tithes, the buyer or the Seller? It is answered, the Buyer^m shall answer the Tyth: and the reason is, *Decima sequitur fructus, & cum onerare fructum decima transferuntur in alium, i.* Tythe doth follow the fruits, & fruits be translated into others right together with the burthen of Tithesⁿ.

3 Where the Inheritance of a wood is sold the Tithes whereof for certain years forepassed, by the Seller hath been detained and wrongfully substracted from the Church, It is a question whom the Parson may implead: It is holden he may implead the one or the other at his own choice^o, but he can recover but of one^p. But by the statutes of the land, the Seller onely, in this case, shall be impleaded and sued unto treble damages, 2 Ed. 6. 13. And not the

k. c. Quamquam. Prov. ang. eo. ubi. glo in ver. exicis.

Gloss. cap. San. & ecclesia. provin. ang. eo. ver. arborum. ad hoc l. arboribus ff. de usufruct. m. Est de decim. c. Pastoralis.

n. c. Preal. eod.

o. Per de anch. & D. D. c. cum homines eod.

p. Ar. ad hoc de re iud. r. Bona fide. li. 6. Glo. provin. Ang. de decim. ver. apportionant.

ff. Deleg. 3.
Ligni Sed.
ignorum verb
uid mirum.

buyer who took not the Tythe away.
4 *De Turvis, i.* Of Turves, they be tithable, and comprehended under the word *Lignis*, because they be so applied, that is, for firing, and reckoned in the number and amongst predial Tythes.

The Third Question.

D cima D: { *Pastwis, i.* Of pasture grounds.

I If they be fed, how the tithe shall be answered?

The Third Question.

John 14. 26
for
OF Pasture grounds, when they be fed, it is a question how the tithe shall be answered? It must be considered whose the grounds be, whether the owners of the cattel that fed them, or a strangers of another Parish. In the first case, if the cattel be such that yeeld profit to the Church, the Tyth is satisfied in the fruits of the beasts. In the other case, it must be considered of the stranger, whether he selleth or giveth franckly to the owner of the cattel, the pasturage of his grounds: the stranger if he sell it, is answerable for the tenth Penny: the Parishoner, if freely he receiveth it, is answerable for the estimation. But note, the estimation shall not be answered, but where the grounds with beasts be fed, *Nulla n Ecclesia utilitatem alias, &c. i.* Yeelding otherwise no profit at all to the Church, of which sort be Horses, Oxen, and such other barren Beasts. In other profitable cattel, the tyth is intended (as afore said) to be answered in the fruits. But note, that generally the occupier of the pasture is to pay the Tithe, and so is the custome.

The

cy Inno ext.
dedecim c.
commisum.

sc. Præal, cod

2 Juxt. notat,
per Inno ut
sup. glo. ver.
dividenda
prov. an. co;

The Fourth Question.

Decima De { *Fenis*, i. Of Hay.

1 Hay, of what places? and what Tithe it is?

The Fourth Question.

1 **D**E *Fenis*, i. Of Hay, according to the exposition of the word, the tythe is payable, *viz.* Of the grasse withered or green, perceived and taken in Meddow, Pasture, great or small, or in other place, places: or Angles (so within the limits of the parish) wheresoever^u: Question hath been moved of this Tythe to this effect, that is to say, whether it be predial or personal: It is answered to be predial^x: For how be it the industry and labour of the person may seem and be alleadged more to prevail (as they tearm it) in the making thereof, then the nature of the ground, yet in that it is perceived of the ground, and gathered of, and from a place certain, in some one or other known, certain, and limited Parish, it is tithable as other predial tithes be, that is, to that Parish Church where the grounds doe lie. Without Deduction of charges.

^u Provis ag-
c quoniam
propter volu-
mus.

^x Ancha cap
pervenit. eod

^y Ad hoc e-
pastoralis.
ext eod.

The Fifth Question.

Decima De { *Lana*, i. Of Wool.

1 Whether the sheep of Sons and Daughters be tithable (or not) with their fathers flocks wherein they do goe?

C 3.

2 Where

- 2 Where sheep be removed from one parish to another, how the Tithe is divided by rate and proportion of time?
- 3 If strange sheep be brought to another parish and there be clipped or shorn, how they be tithable there?

The first Question.

1 **O**F profits and increase of such profitable beasts before mentioned, & specified in particular under the words *Lana Agnis*, question is moved to this effect, there be in one family divers persons having to the number of 3, 5, 6, 8, or 10. Lambs or fleeces of wool more or lesse, their sheep be depastured and so be reputed part and parcel of the flocks wherein they walk, couch, and do feed: The question is of their Tythes, whether they be tithable with the flocks, or in their several parcels? It is answered, In their several parcels, and the reason is, *Animalia quæ gregibus alienis admixta sunt, remanent eorum propria non quorum sunt greges, sed quorum sunt animalia: i.* Beasts intermingled with other mens flocks, do remain notwithstanding proper and peculiar unto those, not whose be the flocks, but whose be the beasts. Howbeit in Countries where persons such as Sons, & daughters, in their fathers power, government, maintenance, and finding, shall have such beasts or cattel intended in law, and counted in *bónis profectio & adventitio*, i. accruing and growing by their fathers or friends by the mother side, by gift, procurement, or otherwise, in which beasts their fathers are interessed, in the use and fruits, the bare property remaining to the children, the Tithes of these beasts shall bee reckoned with their Fathers^a, and not in their several parcels,

^a Arg. ad hoc
ff. per quas
personas no-
bis Sect 1.

parcels, and the reason is, *Vt ipsarum rerum quæ in fructu sunt et patri adquiruntur, pater solvat dicimam, &c. i.* Of things in increase and procured to the father, so shall the father be answerable for the Tythe ^b, the property notwithstanding reserved to him or her to whom it belongeth, his son or daughter. But for that *Patria Potestas, &c.* That legal power and prerogative of Fathers is not in use, neither yet *Profectitium* nor *Adventitium peculium* are known in England, the beaſts of Sons and Daughters here mentioned (in respect of their tyth) shall not be reckoned with their Fathers Cattel, but as the Cattel of other strangers : and what is given by the Father to the Sonne or to the Daughter, is their own, except the Father by expresse words shall reserve the fruits of such catel so given, to himself.

^b Glou. prou-
ang. de dec.
ver. decima
lana.

2 Where such catel be removed from Parish, to Parish, and question be made what proportion of the Tythes is due to each Parish, the custome of the place must be observed: otherwise the law is, *viz. Qualibet Ecclesia pro rata temporis portione decime percipiet. i.* Every Church shall receive it tithes by rate and proportion of time: but the question is, of what space this rate and proportion is meant? It is answered, of xxx. dayes, and so to be rated by Thirties from Thirtie to Thirty, *Minori trisiginta Dierum spatio in rata temporis minime computando, i.* Under or lesse then the space of xxx. dayes not to be counted in rate and proportion of time: for example, The parishoner hath forty sheep which yeeld him at shearing day fourescore Pounds of Wooll: that Church is interessed intirely in the tithe in whose Parish the whole year they couched and depastured: that Church in the half, that is, in the tithe of 40. pounds where the halfe year

^c Text. pro-
vin. ang. ca-
quoniam vt
audinimus.
codem,

year they couched and depastured : that Church in twenty pounds where they couched three months and depastured: and so ratably four moneths, five moneths, more or lesse accordingly : and that Church in whose Parish they couched and depastured but One Month, that is xxx. dayes, but in the tythe of the twelfth part thereof, that is, of the whole Fourscore pounds, but the tenth of Six pounds and half, and under thirty dayes as afore is said, no allowance at all ^d. But note, if the whole time they couch in one Parish, and depasture in another, the Tyth shall be devided ^e.

d. c. Ver fed
loves.

Self si vero.
onst. p^{ra}al.

Self & si o-
cs const. ead.

3 If peradventure they come from a strange and unknown place to any Parish to be clipped or shorne, there the tithe must be paid, except it may appear the same to be satisfied to the Church whence they came ^f.

The Sixth Question.

Decima de {
Agnis, i. Of Lambs.
Vitulis, i. Of Calves.
Procellis, i. Of Pigges.
Pullis, i. Of Colts.

- 1 Whether the person may expect his Lamb (the next year following) if the parishioners number in any one year amounteth not to ten? And what, if he faileth then?
- 2 When ewes be removed, and other such cattel and beasts from one parish to another, how the several Churches be interested in the Tithe of their Lambs, and such other increase.

- 3 Of Lamb, calf, Kid, colt, pigge, &c. and when is their Tythable time?

The Sixt Question.

1 **F**Or tythes in profitable beasts, the Parson may expect the fall of the Tenth the next year following, if the number in any one year amounteth not to ten, according to the text of the constitution^a, viz. *Vel expectet rector usque ad alium annum donec plenarie decimum agnum possit recipere, si maluerit: i.* Or let the Parson (if so he had rather to do) expect another year, till he may fully receive his tenth Lamb. Now it falleth out the Parson useth his liberty and refuseth his Lamb at seven, and his half pence at Six, and the Parishoner the year following hath never a Lamb at all: The question is, how the tyth shall be satisfied? It is answered, (in this case) the Parson hath no remedy in law, and the reason is, *a principio male eligendo fuit in culpa, ergo in hoc sibi imputetur, i.* He made his choice but ill at the first, which was his own default, and therefore he must blame himself^b. Yet *Lyndwood* affirmeth in this case, That in regard of the Church, in respect whereof tithes ought not to be lost, and in regard of the party himself, the owner of the fruits, who without sin cannot detain by any colour the rights from the Church, though the Parson (for his own sake) cannot relieve himself *Jure Actionis, i.* By right of action: yet for the Churches sake *Officium Judicis, i.* The judge his office may be desired;

^a Text proven in ang. co. quoniam propter de decim.

^b Arg. ad hoc inst. quod cum eo qui in alt. pot. &c. ceterum autem a & glo. const. prov. prael. verbo possit recipere.

ⁱ c. verb. const. prael.

2 Yeaws be sometimes removed from grounds to grounds, from parish to parish, the question is, (in this case) of the right of their tithes: It is thus answered

l.c. Quoniam
ut audivimus.
const. Provin.
ang. Sess agni.
cod.

Ca. & Sess.
pra.

m Glo. c. &
Sess praal.
verb. particu-
laritur.
n Ca. & Sess
pra.

o Rebusi, co.
q. 6, un 30.
Inno. host. &
alii in ca. cum
homines. cod.

swered by the text law *h. viz.* The tithe of Lamb is payable in manner and forme as be the tyths of calves and colts and such other like tithable increase, mentioned to be Pigge, kid, &c. of which the Law determineth thus, *viz. Habita ratione ad loca diversa ubi gignuntur, oriuntur, et nutriuntur, & ad moram quam traxerint eisdem particulariter decimentur. i.* They be tithable by rate and proportion (particularly) to the several Churches in whose parishes they were ingendred, brought forth, and nourished^l: for example, The Yeaw goeth five moneths with her Lamb, they put them together the Male and Female the last of September, where they coupled they remain one moneth: they be removed to a second parish, to a third, to a fourth, and to a fifth, where they be depastured several months: in this case *Unusquisque pro tempore suo: i.* Every Parson for his time^m, that is (the several times and places considered) the several Churches in the tyths have several rights accordinglyⁿ.

3 And touching the question of their tithable time, it is answered thus, *Fetus ablactatus esse debet antequam pre-
stetur. i.* They must be weaned, weanable, or of strength to live without the damme^o, except custom hath observed therein a time certaine, the which where so it is, there it must be continued. Look custom the 6.

The Seventh Question.

Decima De **Lacte, i.** Of Milke.
Caseo, i. Of Cheefe.

1 Milk and Cheefe how? and when they be tithable?

2 If

- 2 If Cattel feed in one parish and couch in another, how the profits be tithed ?
- 3 Where Cheefe is tithable, and the number of Cattel so small that none can be made ; how the tithe shall be answered for their small proportion ?
- 4 Where Milk of sheep is tithed in kind, how they be tithable (for their pasture) in the Winter, when they doe yeeld no such profit ?

The Seventh Question.

1 **M**ilk and Cheefe, viz. of Kine, of Sheep, or of Goats, they be reckoned as *In pecndum fructu*, i. In the increase of such cattel ^{p ff. de usufr. l. in pecndum}, as also be *Lana & fetus*, i. Wooll, Calfe, ^{inst de reidi. Sect in pecndum.} Kid, and Lamb, whereof mention is made in the fifth and sixth questions before: and touching question herein to be made, suppose of the Milk when it is perceived and taken, of the nine parts thereof (when the tenth is deducted) there be made ten cheeses it is answered, in this case, The cheeses are not to be tithed: ^{p de reg. iur. in 6.} for cheefe is not tithable but where milk is not tithed: and so of the other : briefly, they be tithable either of them *tempore suo*, i. In their seasons^r, and so long, and so soon, as either Milk or Cheefe shall be perceived and taken (in their kind) by the Parishoner : there can be no custome of intermission to the contrary. Look Custome, the 3. And what the Law of custome may be in this case, followeth here the 3.

2 Sometime these cattel be depastured in one Parish, and couch in another, in this case it may be demanded, What the law determineth of the tyth ? It is answered in the text Law, viz. *Quod inter Rectoris dividatur*, i. In this case the Parsons shall divide ^{sc Quoniam ut audivimus. prael. Sect decima.}.

3 Question also herein is moved further in Law ; where such tythes be payable in kind; and the number of cattel so small as *Lyndwood* supposeth * of some one or other Parishioners, which have not only three, two, or peradventure but one onely Cow, and those, or that to be milked but *alternis diebus*, i. But each other day, by reason whereof the parishioner can make no cheese at all : what is the Churches right in this case ? It is answered in the text Law * . viz. *Consuetudini locorum duximus relinquendum*, i. The custome of the place must be observed : provided the custome be, that *Certum quid solvatur*, i. That somewhat be paid in consideration and liew, for custome herein (as in all other cases of tything) cannot exclude *solutionem decimæ*, i. It cannot intirely take away the payment of the tithes of such profits as arise, as may appear in custome the third, onely it may limit *solutionem decimæ*, i. Custome may moderate the payment of Tithes. Look custome the fourth. Hither (by a constitution provincial of *England*) also be referred Calf, Colt, Pigge and such like, that is, when their number is so smal that they cannot be tithed : it is the Chapter *Quoniam ut audivimus*, and Paragraph *quid vero*, which constitution *Lyndwood* affirmeth upon the same Paragraph, that it extendeth not to Wooll and Lamb, but citeth there another expresse and peculiar ordinance for the same, viz. If the Parishoner shall have six Lambs or under, he shall yeeld for his tith for every Lamb a half-peny : if seven Lambs, he shall yeeld a Lamb for his tithe, and receive three half-pence : if eight, a peny : if nine, the Parishioner (onely) receiveth a half-peny of the Parson, or the parson may expect, according to the sixt question before. *Et ita intelligendum est de decima Lanae*. i. The same ordinance and provincial constitution

c quoniam
propter' præ.
seth quid vero.
in cap. & seth
præal verbi,
modicitatem.

c. seth præal.
in fin.

ext. c. ti. c.
in aliquibus.

tion is had of Wool. It is the Chapter *quoniam propter*, and Paragraph *De nutrimentis*, in the title of tithes.

4 *Post festum, &c. i.* after the feast of Saint Martin in winter, sheep be cistfoons removed from parish to parish, or else they doe continue in one and the same parish from that feast till shearing day ensuing: the question is, of their tithes? It is answered, they be tithable thus, *viz. Habita ratione ad numerum ovium Pasca estimentur, i.* The pasture in this case must be considered (for want of their milk in this season) by the head or number of the sheep that depastured in them *z*, and so shall the tithe be rated and yeelded *a*: by rate and proportion of time (by the moneth *b*) as *Lyndwood* inferreth, and as it is said of thirty dayes, and by thirties and so from thirty to thirty, as in the first question before of Wooll.

z c. Quoniam ut audivimus, præal. Self. quod si prov. a g. c. a c. Self. præ c. b. Gloss. c. Self. præal. verb. estimentur.

The Eighth Question.

Decima de *Fructibus arborum*, *i.* Of Fruits of Trees.

1 Of apples and other such fruits of trees, what of their tithable time?

The Eighth Question.

1 Fruits of trees, *viz.* Apples, pears, wardens, &c. the question is of their tithable time: it is answered, *statim fructibus collectis, i.* So soon and immediately when the fruits shall be gathered *c*, and the reason is, *quia minus soluit, qui tardius soluit, i.* He

c c. cum homines eod.

fi cui in fi-
ff. de verb.

cum ho-
nes præcod.
st.

1. c. ad A.
stolice. c.
rvenit cod.

minisheth his duty that delayeth the time ^d: if therefore the Parishoner shall gather his fruits, and neither pay the Tythes presently, nor monish the parson to receive them, but subtract them, or that (otherwise) they be impayred or lost, *tenebitur*, saith the Law; that is, The Parishoner is bounden e: to what satisfaction look the Statute 2. *Ed.* 6. 13. for fruits be Tythable, and predial *f*.

The Ninth Question.

Decima De { *Seminibus*, i. Of seeds: Hemp, Flax, Onions, Rape and such like.
Herbis, i. Of Pot-herbs.
Curtilagis, i. Of places adjoyning to mansion houses, applied to seeds and herbs.

1 Of Seeds and Herbs, what manner of tithes they be?

The Ninth Question.

1 Seeds and hearbs, *viz.* of Flax, Millet, Hemp, Leek, Onion, Rape, Percely, Sage, Mint, Rue, &c. comprehended under the words *Seminibus*, *Herbis*, *Curtilagis*, they be tithable *g*, as they be perceived and taken in Gardens, or in the fields, either of the seed, or of the herb before the seeding time ^b, *Nisi parochiani competentem fecerint redemptionem*, i. Except the parishoners sufficiently shall redeem or compound for the same ⁱ, these be *Minuta decimæ*, i. Small tithes according to the Evangelist ^k, *viz.* *Te tyth mint and Rue, &c.* And therefore in them no great question to be made.

The

1. c. quoniam
propter præ-
prov. ang. c.

Concor. est.
eo. c. ex parte
canonicorum
1. c. quoniam
propter præ-
Lu. 11. Ho-
c. ex multipli-
ci. co.

The Tenth Question.

Decima D: **Pannagis**. Of Mast, of Beech, or Oke, or
silvarum, i such like.

I Of Mast, what, when it is given? and what, when it is sold?

The Tenth Question.

I **B**Y the chapter *Sancta Ecclesia*, in the provincial Constitutions of *England*, and title of Tyths, the tyth of Mast and of other such wood and wilde fruits, be payable, *viz. Si vendantur*, i. If they be sold: that is, (as the glosse inferreth) of the tenth peny, if they be sold; otherwise, that is, if Swine franckly & freely received & fed, without consideration of charges to the owner, in this case *Transcunt fructus cum onere*, i. The fruits do passe with their charges *m*, *viz.* with the burthen of tythes.

I c. Sancta ecclesia pre- m glo. in d. c. verb. si vendantur. ubi a hoc exteo. c. pastoralis, & Inno ext. c. commissum.

The Eleventh Question.

Decima D: **Molendinis**, i. Of Mills, forced by wind, water, &c.
Vivariis, i. Of Parkes, Warrens, pools, ponds, &c.
Bestiis guarenarum, i. Of wild beasts under custody, &c.
Columbariis, i. Of Dove-cotes, or houses.
Apibus, i. Of Bees.

I What

I What manner of tithes they bee? And how they be tithable?

The Eleventh Question.

I **Q**uestion hath been moved of the tyths of Mills, Parks, Ponds, Warrens, dove-houses, and Bees, to this effect, *viz.* Whether they be predial, or personal? it is answered, They be predial, and tithable without deduction of chargesⁿ, for the reason alleaged in the fourth Question before. And they be tithable thus; that is to say, not the tenth of the rent for mills (as they tearm it) the tenth peny, nor for Bees, the tenth Bee, or warm, or Hive, but *De proventibus molendinorum*, i. The tenth measure of Corn for Mills^o, and so for Bees, the tenth measure of hony, the tenth waight of wax, briefly, *De cera & melle*, i. Of Hony and wax^p. And the law and reason is of these tithes, especially of Mills, as of other predial tithes, whereof (for example) it is said, *Transit herba pasta cum onere suo ad dominum bestiarum*, i. Where grounds or pastures be demised, or their herbages sold, the owner of the beasts is chargeable with the tythe^q. Especially for the practise of England, look what is said in the Third Question before. Hither be referred Parks, Ponds, Dove-houses, &c. for *Fructus transit cum onere suo*, i. Fruits be lyable to their charges. Look in the Second Question before, 2.

DD. in cap.
astoralis. &
liisca. eod.

cū quoniam
propter, pre-
sent de pro-
ventibus & ibi
lo. verb. inci-
re.

Host. & alii.
nuntios. c.

Ad hec ff.
de usufr. l. usu.
fructu legato-
& item si
undi.

The Twelfth Question.

- Decima De { *Aucupii*, i. Of Fowlings.
Venationibus, i. Of Huntings.
Piscationibus, i. Of Fishings.
 I Beasts, Fishes, Fowles, how (diversly) they be
 tithed, (diversly) considered ?

The Twelfth Question.

I **T**He profits that be mentioned & contained under the words *Aucupii*, *Venationibus*, *Piscationibus*, i. Of fowlings, Huntings, fishings, question hath been moved of the tythes of the same, viz. The Parishoners of N. one of them fowleth, another hunteth, the third fisheth, in the fields, grounds, and Rivers of B. the question is of the tithes, of their advantages taken, and which of the Churches be Interrested in the same, viz. whether the Church of N. where the Parishoners inhabit, or the Church of B. where the Profits were taken ? It is thus answered, viz. If the Parishoner had of the owners of the places franck and free liberty to fowl, hunt, and fish, the Church of N. that is, their own parish Church shall be intirely interrested in them, as in personal tithes : but if any consideration be required, either in money or in part of their gain, that profit onely received by the owner, is predial and tithable to the Church of B. that is to say, in that parish where the fields, grounds, and Rivers do lie. *De cæteris vero*, i. Of the residue, that is to say, of the clear gain of these Beasts, fishes, and fowles, all charges and expences,

I Inno. in ca.
 non est, eod.
 & ibi Host.
 verb. de venat.
 tione.
 I Inno. in &
 Host. cap. &
 verb. præal.

D D. præal.
 in ca. pastora-
 lis, eod.
 DD. in d. c.
 Non est ibi i-
 dem not per
 D D. præ. in
 decimis a
 viam & fera-
 rum gloss. in
 præ. c. quoni-
 am propter
 Sæc de piscati-
 onibus provin-
 ang. eod.
 verb. debito
 modo.
 x c. ad aposto-
 licæ. eod.
 y c. questi 16.
 q. 1.
 x Inno. Host.
 in c. non est
 præal eod.
 verb. de vena-
 tione.
 a c. 1. c. ad a-
 postolice. c.
 pervenit. præ.
 eod.
 b cap fin. de
 parochiis.
 c Rebuff. eo.
 q. 8 nu. 17.
 d Ancha. in
 præal. c. non
 est. co. col. 2.

pences, in, about, belonging, and concerning these profits taken, deducted^r, the Parishioners that took them be chargeable withall to their parish Church of N^u, mentioned before: and the reason is, the Fowls, Beasts, and Fishes be taken *artificio, ministerio & opere hominis, i.* By the art onely, labour, and industry of man, from whence proceedeth personal tithes^x, payable onely where the Parishioners inhabit^y. But if the consideration mentioned here, required and taken by the owners, commeth not by art, or industry, but *Ex huius, i.* By way onely, and means of the ground^z, from whence do arise all predial tithes^a: payable onely in the place and parishes within whose bounds and limits they are^b. Thus they be divers, these tithes, diversly respected, that is to say, predial or personal; note the difference. Note also, that where such tithes bee demanded, it is where such art, industry, and travel is answered and rewarded, not with pleasures, but with profit^d. Question hath further been moved of these profits and advantages aforesaid, to this effect: viz. the parishioners mentioned of N. had franck and free leave and liberty to hunt, fish and Fowl within the fields, grounds, meddows, rivers, and running streams of B. mentioned before: they took, preserved and reserved alive their beasts, fowls, and fishes, and so they conveyed them to certain their own proper and private grounds, within the bounds, compasse, and limits of another parish, then either of N. where they dwell or of B. where they took them: they include them (there) these beasts, fowls, and fishes, and compasse them within parks, Warrens, ponds, pooles, houses, such as be mentioned and comprehended under the words *Vicariis Columbariis*, in the eleventh question before. Thus they feed and nourish them, and they breed,

breed, and increase in their kinds : now, in that these inclosed and limited places do alter and change (in law) the nature of the profits of the nourished Creatures within them^e, which of the Churches have right to the Tithes ? It is thus answered, viz. They were included at the first as they were taken, that is, by art and industry of man : howbeit they increase not by industry and art, but by the nutriment and nourishment of the waters and grounds, where they live *ex sola gratia Dei*, i. Of the meere grace and bounty of God ^g : and therefore for the rate, value, and proportion of themselves, they remain these profits as they were taken at the first, that is, personal : Tithable to the Church of their Parish that took them^b. But their increase is predial, Tithable to the Church within whose limits they be, and be fed, and nourished i. The circumstances of these tithes mentioned in these cases, according to that worthy and of famous memory *Hofiensis*, do make them neither meere predial, nor meere personal, but mixt Tythes^k : payable notwithstanding as predial and personal diversly respected as aforesaid. So, consider thus (briefly) of these Tithes, that is to say, considered as they be included within compasse, limits, and bounds (from their natural liberty) tyed and restrained to the same, as in ponds, parks, warrens, houses, and in such like limited places, they be predial Tithes : but considered as they enjoy (at their will) their natural liberties, as Fishes, the Sea ; Fowls, the Aire ; and Beasts, the Fields ; in that they are not reckoned of any place certain, their Tithes be not predial but personal : touching therefore question herein to be made, to what Churches they be due ? It is answered as of predial and personal Tithes : that is, the one to that Church in whose

^c Rebuff. eo. nu. 14. & 15. ad hec Inno. & Pan. in d. c. non est. Inno. & Hof. in d. c. non est.

^g DD. prae. in d. c. non est.

^b Pan in cap. prae. & ibi An. de intellectu Hofiensis ad idem. i Pan. & DD. in d. c. non est. ^k Hof. in cap. prae.

Parish these limited places aforesaid do lie that doe make them predial; the other to that Church in whose parish the Parson doth inhabit that maketh them personal. And this is the difference.

The Thirteenth Question.

Decima D: { *Cignis*, i. Of Swannes.
 { *Aucis*, i. Of Geese.

I Of Swans, Geese, Ducks, and how they be considered of.

The Thirteenth Question.

I **S**WANS, Geese, and Ducks, be distinguished thus, *viz.* whether they bee *Volantes*, i. whether they be wilde and do flie, or be tame, or not: this considered, the profits be tithable accordingly: for example, The Cygnets, *Sinascuntur in loco certo, & suscipiuntur a loco certo*, i. If they be brought forth and so be taken in and from a certain and known place, they be predial and tithable, as predial Tithes: if from incertain places, they be personal, and so they be Tithable, *viz.* as personal Tithes^l. It is affirmed of them, as of beasts, fowls, fishes^m, in the question last before. Hither by the chapter *sancta Ecclesia*, in the provincials of England, be referred Geese and Ducks.

Glossin c.
sancta Eccle-
sia prae. Sess. 1.
per cignorum.
in DD. ext. c.
it c, non est.

The Fourteenth question.

Decima D: { *Ovis*, i. Of Egges.

I Of Egges, where tithes be yeelded, whether chickens be tithable there?

The

The Fourteenth Question.

I **D**^E *Ovis*, i. Of Egges, it hath been moved whether they be tithable in such places where tithes be yeelded of Chickens? By the written law it may be answered, as of milk and Cheese in the seventh question before, the 1. Howbeit Custome in this case prevaieth, as experience sheweth in some parts of this Land ⁿ.

ⁿ Gloss. in. d. c. sancta ecclesia. cap. quoniam ut audivimus ver. polli.

The Fifteenth question.

Decima De **Artificiis**, i. Of Crafts, and manual occupations.
Negotiationibus, i. Of trades by wares, Marchandise, &c.

I Of personal tithes, what time, place, and persons, be required in them, and of whom the Church is forbidden to receive either personal tith, or Oblation?

The Fifteenth Question.

I **T**rades, Crafts, and Manual Occupations, they be personal, and of the profits doe arise meer personal tythes: touching therefore first their tythable place, it is answered in the Twelfth question before. Of their tythable time, it is answered in *fine anni*, i. They be payable at the end of the year *o*, and as our custom is, at *Easter*. Of persons that be chargable with these personal Tithes, it is answered of such persons, which of custom have, or of right ought to have paid their personal Tithes ⁿ.

ⁿ Gloss in c. revertimini. verb. annus.

p 2. Ed. 6. 1.

Rebuff q.
 nu. 14. &
 i. cit. But in
 parochianos
 fin. eod.
 Host. in ca.
 astoralis in
 n. eod. & 10.
 etur. cre. in
 revertimini
 raal. nu. 12.
 er ad septi-
 mum. 16. q. 1.
 Host in ca:
 s transmissa.
 od. arg. ca.
 Oblationes.
 o dist Deut.
 3.
 e mirer 17.
 4.
 c. si tantum
 q. 2. hec
 rebuff q. 5.
 u. 18. 8. 19.

Look the Summaries of the Statutes ensuing. There are of these personal tithes (in divers cases) *Opinionum conflictus*, i. Diversities of opinions q: but herein they agree, viz. *Hæ Decimæ personales, magis in difficultate, & subtilitate, quam utilitate consistunt*, i. They are these personal tithes, more intricate then profitable r: one-ly this (to conclude) must bee noted, that is to say, all persons (consideration had as afore is said) be bounden to offer their personal Tithes to the Church, but the Church is forbidden (of all persons) to receive them s: for example, The Harlot, the Robber, the Usurer, &c. they bee not exempted; but the Law rejecteth them, their personal tithes, and Oblations: *Non inferas mercedem meretricis, &c. i.* Thou shalt not bring the hire of an Whore, nor the price of a Dog into the House of the LORD t. And for the other, *quæstus fit ex peccato*, i. Their gain ariseth of sin: the Church is therefore forbidden to receive of them, *Ne ipsorum videatur approbare turpitudinem*, i. Least the Church should seem to approve their Iniquities n.

Here do end the questions of Tything, movea (in times past) and answered: and which be now urged (ordinarily) and decided at this day.



Of Composition, Transaction, Custom, Prescription, Priviledge:
 and how they prevail in Tything.

Of Composition.

Composition (by the Cannon lawes) holdeth or faileth diversly respected: and it is first to be considered of as it hath been made & had *inter clericos*, i. Betwixt Clerks themselves; and then it hath tended

tended either *Transferendis decimis*, i. To the translating of Tithes from one Church to another : *Vt quæ uni Ecclesiæ decimæ debentur, alia recipiat*, i. That one Church receive tithes which be due to another. And the composition herein holdeth ^a, and the reason is, *Non refert quæ Ecclesiæ decimas habeat, modo Ecclesiæ persoluantur*, i. It forceth not of Tithes (so the Church enjoyeth them) what Church receiveth them ^b. Howbeit, the nature and kind of the Tythes thus translated, must be considered, namely, whether they be personal or predial tithes; if they be personal, the composition that translated them holdeth not, and the reason is, *Ne occasio tribuatur vagandi & divina extra parochiam audiendi*, i. Least occasion should be given to the people of wandering, and hearing of divine service from their own parish Churches ^c.

2 If they be predial, the Composition holdeth, *Inita cum autoritate Episcopi*, i. The authority and approbation of the Bishop of the diocesse thereunto had; which composition shall binde both the Clerk and his successors ^d: otherwise without the Bishops confirmation, it shall not onely binde the Clerk that yeelded thereunto, and not touch his successors at all ^e.

3 Or the composition hath tended *Remittendis decimis*, i. To the remitting of Tithes, *Vt tota decima clerico remittatur*, namely, That to a Clerk Tythes should be intirely remitted, this composition holdeth not ^f, and the reason is, *Decima omnino tolli non potest*, i. Tithe may not wholly be taken away ^g.

4. Secondly, composition must be considered, as it hath been said *inter Laicos, & Rectorem*, i. Betwixt Laymen and Clerks, which composition also must be respected thus, namely, whether it be *De præteritis decimis*,

i. Of

^a c. 2. d. tran.
c. dilecti. co.

^b c. 3. cod.

^c c. 2. sup. ti.
Rebuff in q.
13. nu. 17. d.
decial.

^d c. 2. & c. ve
niet. de tran

^e c. veniens, t
præal.

^f Feuff. q. 1
nu. 27. de de
cim.

^g q. nu. præ
Rebuff.

c. super. de
eb. eccle-
on alien.

Rebuff. q. 13.
raal.

Text in ca.
venerabilis
de consec. & i.
bi Pan.

Of Tythes forepassed, or *de futuris decimis*, i. Of tithes to come. In the first case, this composition also holdeth, yea though it be *Gratuita*, i. Without consideration or allowance at all ^b: In the second case if the composition be, *Vt Aliquas decimas non solvant*, i. That tithes be not paid at all, *Non est admittenda*, i. Not to be admitted ⁱ. If the composition be, *Vt integra decima non solvatur*, i. That tithe be not wholly paid, but in part, it holdeth: howbeit not otherwise but confirmed by authority supream: for the Bishops confirmation herein sufficeth not, for none could exempt from tithing, nor diminish the quantity of the same, but the Supream power ^k, as it followeth in Priviledge.

Of Transaction.

TRansaction and composition doe differ in this, the one is *Constituta conventio*, i. A voluntary, franck and free agreement of things not contēded for, which is said to be composition: the other, *Dere dubia & lite incerta* (aliquo dato vel retento) *pactio*, i. A forced covenant or agreement (for somewhat given or received) of things litigious, uncertain, and doubtful in controversie ^l.

1. si. de trans.
C. e. c. super
co.

2 It must be considered of Transaction as before it hath been said of composition betwixt Lay-men and Clerks. Look composition four. Transaction (if it be of tithes forepassed) holdeth; yea though the consideration had, be of things meer temporal: and the reason is *Fructus decimarum sunt temporales*, i. The profit and fruits of tithes be reputed temporal ^m. Transaction, if it be of tithes to come, must be respected

m c. vestra. de
loca.

pected according to the time and term it is made for, namely, whether it be made *in tempus modicum*, i. For a short and limitted time, or *in perpetuum*, i. (without limitation) for ever, In the first case it holdeth with the Bishops approbation and authorityⁿ in the other case it holdeth also if the right and interest of the Church be doubtful, as where the Parishoner pleadeth against the Church, Exemption or Priviledge. But where the right of the Church is *Liquidum*, i. Where the Churches right is clear, Transaction holdeth not otherwise then by consent and authority supream^e. Transaction is often taken for composition, and one for another^p.

ⁿ Arg. c. 2. &
3 sup. de iis
quæ fiunt a
capit.

^p Not. ca. a.
nobis eod.
Pan. c. statui-
mus de trans.
p c. venien. e.

Of Custome.

I Custome by the Canon Lawes holdeth or faileth, diversly respected: if it be *De transfereendis decimis predialibus*, i. Of translating of tyths predial (as afore hath been spoken in composition) it holdeth^r.

2 If of personal tithes, as afore hath been said in composition, it holdeth not^r.

3 Custome *De non solvendis decimis*, i. Of not yeelding of Tythes at all, holdeth not, and the reason is: *Juri nature & divino contraria est*, i. Such a custome is contrary both to the Law of Nature, and the Law of God^s.

4 Custome *De minori quantitate solvenda*, i. Of yeelding lesse than the tenth in quantity, holdeth *in Personalibus*, i. In personal tithes only after the opinions of some^t, but of others in predial also^u; and practise also sheweth the same.

^q c. cum sint
homines. & c.
ad apostolice.
eod.
^r c. præal.

^f DD. id c. fi.
de consuetud.

^t c. in aliqui-
bus. & ibi inno-
pan & alii.
eod.
^u Sebuss. q.
13. n. 46.

Host in sum
Sess. fin eod.
DD in c. ad
apostolice
præl.
Rebuff. q. 13.
præl nu. 40.
50. 52.

5 Custome *De loco*, i. Of place where Tythes ought to be left, holdeth x.

6 Custome *De tempore*, i. Of the time of Tythes to be yeelded, holdeth y.

7 Custome *De modo*, i. Of the manner and form of yeelding of Tythes, holdeth z.



Tythe what it is, and of how many sorts.



The of the Latine, Decima, is a tenth part or portion of increase, commanded unto Moses by whom it was delivered (at the appointment of God) to bee paid to the sons of Levi, for their ministry wherein they served in the Tabernacle: in Law defined thus; viz. *Omnium honorum licite quasitorum quota pars Deo, divina constitutione debita*, i. Of all lawful increase and gain a certain part (by constitution divine) due, and appertaining to God^b. And they be either predial, as that which doth arise and grow by reason and vertue of the grounds, viz. Fruits, and increase of Beasts, Fishes, Fowles, &c. Or they be personal, as that which ariseth by reason and vertue of lawful and honest commoditie, so recovered and procured by art, science, or manual Occupation of some person^d. It is also to be noted, that titbes, some of them comprhended under these titles, Prædial and personal, be called by the name of mixt tythes, of which sort be such as do rise and grow partly by the grounds^e, and partly by the care, keeping, labour, and industry of some person; as of Cattel subject to the Fox, Wolfe, and such devouring beasts, supposed to be partly of the grounds where they be bred and fed^g, even as a tree is supposed

Nu. c. 18.

b Card. consil
26. pro evi-
denzia. c. tua
c. fin eod
c. pervenit.
præl eo c.
non est. 22. c.

d. c. ad apostolice.
præl.
e. ca. commissum
præl.
f. c. apostolice.
c. pastoralis.
eod.
g. l. cum quidam
ff de fun.
struct.

supposed to be also partly of that place where the roots do grow, by the which it is nourished, so they be maintained by the grounds, but defended by the shepherds. Look more of mixt tithes in the twelfth question. Some of them by the name of greater Tythes, In Latine *Majores five grossæ decimæ* (as we term them) Great tythes: such be of Corn and Pulse i. Some of them be termed *Minores or Minutæ decimæ* (in our common speech) Small tithes, such be seeds, Hearbs; Egges^k, &c. mentioned in the ninth and fourteenth questions, I.

b l. si plures.
in fin. ff. arb.
furt. cas.
i c. ex multi-
plici de dec.
k Glo. & DD.
in c. cum ex-
tua. & c. ex
multiplici.
præl. cod.



Of Prescription.

Prescription is not much differing from custome, as before is specified of Transaction and composition: but the one oftentimes is taken for the other^a. Howbeit herein they differ, *Consuetudo proprie dicitur quando jura acquiritur in communi et publico, i.* It is properly said to be custome where a right to many is procured in common and publike. *Prescriptio vero quando privato, i.* Prescription when privately to one^b.

^a Dom. ca. 2.
col. ult. de
preb. in 6.
barb. consil.
35. sapientur.
col. 5. in 2. vol.

^b Pan. in ca.
cum ecclesia.
col. 8. nu. 15.
de caus. pos.

Of Priviledge.

PRIVILEGE or exemption is derived from authority supream, by the which *ex justa causa, i.* upon cause and good consideration, sometimes the persons themselves, as the order called *Cistercienses*, and other Religious persons were priviledged and exempted from tithes; sometimes the places, as grounds be-
c c. a nobis de
decim.

d. c. ex parte
cod.

longing to Religions persons ^d. For example, Monasteries, Priories, Nunries, Colledges, &c. or other Ecclesiastical houses, &c. or any Manors, Mesuages, Parsonages appropriate, &c. or other Hereditaments which belonged unto the said Monasteries, Priories, &c. which were discharged of and for the payment of Tythes, being in the hands of Abbots, Priors, or other Ecclesiastical Governors. Concerning these possessions in religious persons, there hath been five several times observed: but leaving those times I referre the readers onely to the statute *viz.* These Monasteries, &c. and every person and persons, their Heirs and Assignes, having &c. shall be according to their estates and titles discharged of payment of tythes, in as ample manner as any of the said Abbots, &c. at the daies of their dissolution. 31. H. 8. 13.

c. Rebuff. q.
14. nu. 37, 38,
39, 40, 42.

Summaries of the Statutes of Tything.

EVery of the kings subjects shall truly and justly without fraud or guile divide, set out, yeeld and pay all manner of their predial tithes, in their proper kind, as they rise and happen in such manner and form as hath been of right yeelded and paid within fourty years before the making of this Act (being 4. November Anno 1548) or of right or custome ought to have been paid. And no person shall take or carry away any such or like tithes, &c. before he hath justly set forth for the tythe thereof the tenth part of the same, or otherwise agreed for the same Tythes with the Parson, &c. under the pain of forfeiture of treble value of the Tithes so taken or carried away, 2. Ed. 6. 13.

At

At all times whensoever the said prædial tithes shall be due at the tything time of the same, it shall be lawfull to every party to whom any of them ought to be paid, or his deputy or servant to see their said tithe to be truly set forth, and severed from the nine parts, and the same quietly to take and carry away, 2. Ed. 6. 13.

If any person carry away his corne or hay, or his other prædial tithes, before tithe thereof be set forth, or willingly withdraw his tithes of the same, or of such other things whereof predial tithes ought to be paid, or do stop or let the Parson, Vicar, &c. or other their deputies, to view, take and carry away their tithes, by reason whereof their said tithe or tenth is lost or hurt: then upon due proof thereof, &c. the party so carrying away, &c. shall pay the double value of the tenth, &c. besides the costs, charges and expences of the suit in the same, &c. to be recovered before the Ecclesiastical Judge, according to the Kings Ecclesiastical Lawes, 2. Ed. 6. 13.

Double va
of the tent
besides ec

Every person which shall have any beasts or other cattel tithable, going or feeding in any waste or common ground, wherof the parish is not certainly known, shall pay his tithes for the increase of the said cattel, to the parson, Vicar, &c. of the parish, Hamlet, Town, or other place where the owner of the said cattel dwelleth, 2 Ed. 6. 13.

Wast groun
not certain
known of
what parish

All such barren heath and wast ground, &c. which before this time hath been barren and paid no tithes, by reason of such barrenness, and shall be improved and converted into arable ground or Meadow, shall after the end of seven years next after such improvement, pay tithe for the corn and Hay growing upon the same. But if such barren, &c.

Wast groun
improved th
never paid
tithe.

if ground
proved that
the be
2.
&c. hath before, &c. been charged with the payment of any tythes, and the same be after improved, and converted into arable ground or meddow, then the owner thereof shall, during seven years next following from and after the same improvement, pay such kind of tithe as was paid for the same before the same improvement, 2. Ed. 6. 13.

va Cedula.
Great wood of the age of twenty years or of greater age sold to marchants to their own profit, or in aid of the King in his Warres, is not Tithable nor comprehended under this word *Silva Cedula*, 45. Ed. 3. 3.

personal
ties.
Every person exercising marchandise, bargayning and selling, &c. or other art or faculty, being such kind of persons and in such places as heretofore within these forty years have accustomably used to pay such personal tithes, or of right ought to pay (other than such as be common day-labourers) shall yearly, &c. pay for his parsonall Tithes, the tenth part of his clear gaines, his charges and expences, &c. deducted. But in all such places where handicrafts men have used to pay their tithes, &c. the same custome of payment of tithes shall be observed and continued, 2. Ed. 6. 13.

offerings.
Every person which ought to pay offerings, shall (yeerly) truly pay them to the Parson, Vicar, &c. at such four offering dayes, &c. as have been accustomed for the payment of the same; and in default thereof to pay for the said offerings at *Easter* then next following, 2. Ed. 6. 13.

Wales.
No tithes of marriage goods shall be required of any person within *Wales*, or the marches thereof. Neither shall any person be compelled to pay tithe for the lands or hereditaments, which by the laws and statutes of this

this realm, or by any Priviledge, or Prescription, are not chargeable with the payment thereof: or that be discharged by composition real, 2. Ed. 6. 13.

If any person after sentence definitive given against him, obstinately refuse to pay his tithes, or shall otherwise contemn and disobey the processe and decrees of the *Ecclesiastical* Courts, &c. then upon information given, &c. the same party shall be committed to ward, &c. 27. H. 8. 20. Look the statute in all.

Obstinacie.

Contempt.

If any of the parties doe appeal, &c. then the judge forthwith shall adjudge to the other party the reasonable costs of his suit therein before expended, and take surety of the other party, &c. to what effect, see the statute in all, 32. H. 8. 7.

Appeales.

If any party, &c. do sue for any prohibition, &c. under the copy of the Libel shall be written the suggestion, wherefore the party so demandeth the said prohibition: and in case the said suggestion by two honest and sufficient witnesses at the least, be not proved true in the court where the said prohibition shal be so granted, within six moneths next following, &c. Then the party that is hindred of his suit in the *Ecclesiastical* court by such prohibition, &c. shall have a consultation granted, &c. and shall also recover double costs and dammages, 2. Ed. 6. 13. And the Judges before whom the cause was first brought in question, shall proceed notwithstanding the Kings Prohibition, 24. Ed. 1.

Prohibition

Consultation

These be Summarily (Christian Reader) the spiritual and statute Lawes of the Land for Tything: this is the work, take it in good part: the title but begun, may better be satisfied hereafter.

F I N I S.